Group III: Claims 28-30, drawn to methods of identifying a molecule which recognizes and binds an allosteric site on DCMTase, classified in class 435, subclass 6.

Applicants elect Group I, namely claim 21, with traverse.

35 U.S.C. §121 provides that "If two or more independent and distinct inventions are claimed in one application, the Commissioner may require the application to be restricted to one of the inventions." M.P.E.P. §802.01 deviates from the plain meaning of "independent and distinct" by interpreting "and" to mean "or". The Patent Office relies on the absence from the legislative history of anything contrary to this interpretation as support for their position that "and" means "or". Applicants respectfully note that this position is contrary to the rules of statutory construction. Restriction between two dependent inventions is not permissible under the plain meaning of 35 U.S.C. §121.

The Examiner does not assert that the inventions of the claim groups listed above are independent. Rather, the Examiner alleges that the inventions of the claim groups listed above are distinct because they have different functions and different effects. Applicants assert that restriction is improper because all of the claims relate to the inventive discovery of a mechanism for inhibiting methylation of DNA via molecules that recognize and bind an allosteric site on DCMTase. Applicants urge the Examiner take into consideration that the subject matter of each of the claim groups is linked by this common inventive concept.

According to M.P.E.P. §803, there are two criteria for a proper restriction requirement. First, the two inventions must be independent and distinct. In addition, there must be a serious burden on the Examiner if restriction is not required. Even if the first criterion has been met in the present case, which it has not, the second criterion has not been met.

Applicants assert that a search into prior art with regard to the invention of the different groups is so related that separate significant search efforts should not be necessary. For example, a search finding that the method of inhibiting methylation of DNA via molecules that recognize and bind an allosteric site on DCMTase is novel and nonobvious should provide the necessary information for examination of all of the claims without requiring an additional search effort. At the very least, separate significant search efforts should not be necessary to examine the claims of Group I and Group II, as the method of claim 21 is the basis for the method of claims 22-27 and

32-35. Accordingly, there is no serious burden on the Examiner to collectively examine the claim groups listed above. Therefore, restriction is not proper under M.P.E.P. §803.

Consequently, Applicants respectfully request the Examiner reconsider and withdraw the restriction requirement. It is also submitted that this application is now in good order for allowance and such allowance is respectfully solicited. Should the Examiner believe minor matters still remain that can be resolved in a telephone interview, the Examiner is urged to call Applicants' undersigned attorney.

Respectfully submitted,

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